IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2570 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA
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1.   Whether Reporters of Local Papers may be allowed
        to see the judgements?

2.   To be referred to the Reporter or not?

3.   Whether Their Lordships wish to see the fair copy
        of the judgement?

4.   Whether this case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.   Whether it is to be circulated to the Civil Judge?

SHREYAS FOUNDATION
Versus
SHREYAS EMPLOYEES UNION

Appearance:
     MR SN SHELAT for Petitioner
     MR MUKUL SINHA for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE R.A.MEHTA
Date of decision: 29/04/98

ORAL JUDGEMENT

1. The petitioner employer aggrieved by the judgment
and award dated 16.12.1993 passed by the Industrial
Tribunal in Ref. (IT) No.223 of 1987 and 73 of 1988
granting benefit of regularisation in employment to the
respondent Nos. 2 and 3 Smt. Gohilben Grace and Smt.
Gitaben Joshi who are working in Kutumbnivas (Hostel) run
by the employer trust named Shreyas Foundation. The

Union have raised the said industrial dispute that they should be made permanent.

2. It appears that there were other disputes as well raised by the Union of which the present respondents Nos. 2 and 3 are also members.

3. On 20.3.1988, the Tribunal granted interim relief to maintain status quo in respect of the respondents Nos. 2 and 3 in the aforesaid industrial dispute. This interim relief continued till the final disposal of the Reference in favour of the respondents Nos. 2 and 3 directing the present petitioner to make both the respondents permanent with effect from 1.1.1990.

4. The petition was admitted in 1994 and interim relief was also granted at the time of admission directing the parties to maintain status quo. Thus both these ladies have been working since about 15 years.

5. Now we are in 1998. Ten years have passed after the industrial dispute was raised in 1988.

6. The learned counsel for the petitioner employer submits that the award of the Industrial Tribunal suffers from serious errors of law and facts and therefore requires to be quashed and set aside. It is submitted that the activities of Kutumbnivas (Hostel) and the activities of Balagram are separate and therefore the respondents Nos. 2 and 3 cannot be absorbed in Balagram.

7. The Tribunal has considered all these aspects and activities of both Kutumbnivas (Hostel) as well Balagram. The Tribunal came to the conclusion that that respondents Nos. 2 and 3 have been working with the institution and have undertaken training Sarala Kendra and they should be absorbed in Balagram.

8. The learned counsel for the petitioner has relied on a judgment of the Supreme Court in the case of F.R. Jesuratnam v. Union of India reported in AIR 1981 SC 1595. Reliance is placed on para 8. In that case the appellant was appointed in the Institute in connection with the project of writing a monograph on `Large Deformation in Metallic Materials' undertaken by Prof. B. Karunesh. The appointment was temporary only and could be terminated on 24 hours notice. The Professor who has undertaken the project expired and the project was dropped and finally closed and therefore the Supreme Court came to the conclusion that such appointment in particular project for a particular professor could not

remain protected against the Institute. This judgment
cannot in any way assist the petitioner.

 In the present case the respondents Nos. 2 and 3
have been working since years and they have worked in
both Kutumbnivas and Balagram. The activities of both
Kutumnivas and Balagram are similar of child care. Four
posts are vacant. Therefore the Tribunal has rightly
come to the conclusion in passing the impugned order
granting permanency to the respondents Nos. 2 and 3 with
effect from 1.1.1992.

9. Hence the petition is dismissed. Interim rellief
vacated. Rule is discharged. The petitioner shall fully
comply with the order of the Industrial Tribunal latest
by 15.6.1998.

     (R.A. Mehta, J)

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